

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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JANESSA NOVAK, individually and as  
Special Administrator for the Estate of  
Lance Novak, deceased, and on behalf of  
M.N., and H.N., minor children of the  
deceased,

Plaintiff,

v.

Case No.: 21-CV-81

MICHAEL MCILVAIN, in his individual capacity,  
HEATHER WHITE, in her individual capacity,  
JOSHUA DELONG, in his individual capacity,  
TODD LEONARD, M.D., in his individual capacity,  
JANE DOES 1-3, in their individual capacities,  
DOUGLAS COUNTY, AND MEND CORRECTIONAL CARE,  
PLLC.,

Defendants.

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**DEFENDANTS MICHAEL MCILVAIN, HEATHER WHITE, JOSHUA  
DELONG, AND DOUGLAS COUNTY'S  
ANSWER TO PLAINTIFF'S AMENDED COMPLAINT**

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Defendants, Michael McIlvain, Heather White, Joshua DeLong, and Douglas County, by  
their attorneys, Crivello Carlson, S.C., submit the following Answer and Affirmative Defenses to  
the Plaintiff's Amended Complaint dated June 2, 2021, as follows:

1. Answering paragraph 1, deny and put plaintiff to her proof.

**The Parties**

2. Answering paragraph 2, lack information sufficient to form a belief, therefore deny  
and put the plaintiff to her proof.

3. Answering paragraph 3, admit McIlvain was a corrections officer at the Douglas County Jail. As to the remaining allegations, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
4. Answering paragraph 4, admit White was a corrections officer at the Douglas County Jail. As to the remaining allegations, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
5. Answering paragraph 5, admit DeLong was a corrections officer at the Douglas County Jail. As to the remaining allegations, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
6. Answering paragraph 6, admit.
7. Answering paragraph 7, admit Douglas County was charged with control and supervision over County personnel working at the Douglas County Jail. As to the remaining allegations, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
8. Answering paragraph 8, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
9. Answering paragraph 9, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
10. Answering paragraph 10, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
11. Answering paragraph 11, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
12. Answering paragraph 12, deny and put plaintiff to her proof.

13. Answering paragraph 13, the allegations state legal conclusions to which no answer is required. To the extent an answer is required, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
14. Answering paragraph 14, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
15. Answering paragraph 15, the allegations state legal conclusions to which no answer is required. To the extent an answer is required, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
16. Answering paragraph 16, the allegations state legal conclusions to which no answer is required. To the extent an answer is required, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
17. Answering paragraph 17, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
18. Answering paragraph 18, deny and put plaintiff to her proof.

**Lance's Serious Medical Needs**

19. Answering paragraph 19, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
20. Answering paragraph 20, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
21. Answering paragraph 21, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
22. Answering paragraph 22, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

23. Answering paragraph 23, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
24. Answering paragraph 24, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
25. Answering paragraph 25, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
26. Answering paragraph 26, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
27. Answering paragraph 27, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
28. Answering paragraph 28, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
29. Answering paragraph 29, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

**The Beginning of Lance's Incarceration and Suicidal Ideations**

30. Answering paragraph 30, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
31. Answering paragraph 31, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
32. Answering paragraph 32, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
33. Answering paragraph 33, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

34. Answering paragraph 34, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

35. Answering paragraph 35, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

36. Answering paragraph 36, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

37. Answering paragraph 37, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

38. Answering paragraph 38, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

39. Answering paragraph 39, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

**Lance's Struggles with Mental Health and Incarceration Continue**

40. Answering paragraph 40, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

41. Answering paragraph 41, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

42. Answering paragraph 42, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

43. Answering paragraph 43, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

44. Answering paragraph 44, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

45. Answering paragraph 45, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

46. Answering paragraph 46, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

47. Answering paragraph 47, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

48. Answering paragraph 48, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

49. Answering paragraph 49, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

50. Answering paragraph 50, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

51. Answering paragraph 51, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

52. Answering paragraph 52, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

53. Answering paragraph 53, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

**Douglas County Jail Takes Custody of Lance**

54. Answering paragraph 54, admit.

55. Answering paragraph 55, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

56. Answering paragraph 56, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
57. Answering paragraph 57, any such contract is limited by its terms and definitions. As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
58. Answering paragraph 58, any such contract is limited by its terms and definitions. As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
59. Answering paragraph 59, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
60. Answering paragraph 60, any such contract is limited by its terms and definitions. As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
61. Answering paragraph 61, any such contract is limited by its terms and definitions. As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
62. Answering paragraph 62, any such contract is limited by its terms and definitions. As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
63. Answering paragraph 63, any such contract is limited by its terms and definitions. As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

64. Answering paragraph 64, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
65. Answering paragraph 65, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
66. Answering paragraph 66, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
67. Answering paragraph 67, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
68. Answering paragraph 68, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
69. Answering paragraph 69, any such policy is limited by its terms and definitions. As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
70. Answering paragraph 70, deny and put plaintiff to her proof.
71. Answering paragraph 71, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
72. Answering paragraph 72, deny and put plaintiff to her proof.

**The Jails Transfer Back-and-Forth Without Proper Suicide Precautions**

73. Answering paragraph 73, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
74. Answering paragraph 74, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.



75. Answering paragraph 75, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
76. Answering paragraph 76, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
77. Answering paragraph 77, any such contract is limited by its terms and definitions. As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
78. Answering paragraph 78, any such policy is limited by its terms and definitions. As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
79. Answering paragraph 79, any such policy is limited by its terms and definitions. As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
80. Answering paragraph 80, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
81. Answering paragraph 81, deny and put plaintiff to her proof.
82. Answering paragraph 82, deny and put plaintiff to her proof.
83. Answering paragraph 83, deny and put plaintiff to her proof.
84. Answering paragraph 84, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
85. Answering paragraph 85, deny and put plaintiff to her proof.
86. Answering paragraph 86, deny and put plaintiff to her proof.
87. Answering paragraph 87, deny and put plaintiff to her proof.

**Lance's Mental Health Deteriorates and his Suicide Risk Increases**

88. Answering paragraph 88, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
89. Answering paragraph 89, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
90. Answering paragraph 90, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
91. Answering paragraph 91, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
92. Answering paragraph 92, the questionnaire speaks for itself. As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
93. Answering paragraph 93, the questionnaire speaks for itself. As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
94. Answering paragraph 94, the questionnaire speaks for itself. As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
95. Answering paragraph 95, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
96. Answering paragraph 96, the subject contract is limited by its terms and definitions. As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

97. Answering paragraph 97, deny and put plaintiff to her proof.

98. Answering paragraph 98, deny and put plaintiff to her proof.

99. Answering paragraph 99, deny and put plaintiff to her proof.

100. Answering paragraph 100, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

101. Answering paragraph 101, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

102. Answering paragraph 102, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

103. Answering paragraph 103, deny and put plaintiff to her proof.

104. Answering paragraph 104, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

105. Answering paragraph 105, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

106. Answering paragraph 106, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

**Lance's Last Day**

107. Answering paragraph 107, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

108. Answering paragraph 108, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

109. Answering paragraph 109, the medical records speak for themselves. As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

110. Answering paragraph 110 the medical records speak for themselves. As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

111. Answering paragraph 111, the medical records speak for themselves. As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

112. Answering paragraph 112 the medical records speak for themselves. As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

113. Answering paragraph 113, the medical records speak for themselves. As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

114. Answering paragraph 114, the medical records speak for themselves. As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

115. Answering paragraph 115, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

116. Answering paragraph 116, the medical records speak for themselves. As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

117. Answering paragraph 117, the medical records speak for themselves. As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
118. Answering paragraph 118, the medical records speak for themselves. As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
119. Answering paragraph 119, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
120. Answering paragraph 120, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
121. Answering paragraph 121, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
122. Answering paragraph 122, deny Lance Novak had an “obvious high risk of suicide.” Deny that Lance Novak “should have been” placed “on Emergency Detention or otherwise placed [ ] on stricter supervision with suicide precautions.” As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
123. Answering paragraph 123, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
124. Answering paragraph 124, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
125. Answering paragraph 125, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

126. Answering paragraph 126, deny Douglas County Jail knew that Lance Novak was severely depressed and posed a risk of suicide and put the plaintiff to her proof. As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
127. Answering paragraph 127, any such policy is limited by its terms and definitions. As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
128. Answering paragraph 128, deny and put plaintiff to her proof.
129. Answering paragraph 129, deny “a higher level of supervision was obvious and necessary” and put the plaintiff to her proof. As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
130. Answering paragraph 130, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
131. Answering paragraph 131, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
132. Answering paragraph 132, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
133. Answering paragraph 133, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
134. Answering paragraph 134, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
135. Answering paragraph 135, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

136. Answering paragraph 136, any such policy is limited by its terms and definitions.

As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

137. Answering paragraph 137, deny and put plaintiff to her proof.

138. Answering paragraph 138, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

139. Answering paragraph 139, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

140. Answering paragraph 140, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

141. Answering paragraph 141, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

142. Answering paragraph 142, admit.

143. Answering paragraph 143, deny and put plaintiff to her proof.

144. Answering paragraph 144, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

145. Answering paragraph 145, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

146. Answering paragraph 146, this states a legal conclusion that does not require an answer. As further answer, lack information sufficient to form a belief, therefore deny and put plaintiff to her proof.

147. Answering paragraph 147, any such policy is limited by its terms and definitions.

As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

148. Answering paragraph 148, deny and put the plaintiff to her proof.

149. Answering paragraph 149, Lance Novak's medical records speak for themselves.

As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

150. Answering paragraph 150, this states a legal conclusion to which no answer is required. To the extent an answer is required, deny and put the plaintiff to her proof.

151. Answering paragraph 151, deny that Deputy Izzard condoned such conduct as alleged. As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

152. Answering paragraph 152, this states a legal conclusion to which no answer is required. To the extent an answer is required, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

153. Answering paragraph 153, this states a legal conclusion to which no answer is required. To the extent an answer is required, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

**Lance is Found Dead by Suicide**

154. Answering paragraph 154, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

155. Answering paragraph 155, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.



156. Answering paragraph 156, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
157. Answering paragraph 157, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
158. Answering paragraph 158, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
159. Answering paragraph 159, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
160. Answering paragraph 160, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
161. Answering paragraph 161, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
162. Answering paragraph 162, deny that Lance Novak did not receive proper medical attention and suicide assessment and put the plaintiff to her proof. As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
163. Answering paragraph 163, deny that proper well-being checks were not conducted and put the plaintiff to her proof. As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
164. Answering paragraph 164, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
165. Answering paragraph 165, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

166. Answering paragraph 166, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

167. Answering paragraph 167, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

168. Answering paragraph 168, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

169. Answering paragraph 169, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

**MEnD's History of Deliberate Indifference**

170. Answering paragraph 170, any such contract is limited by its terms and definitions. As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

171. Answering paragraph 171, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

172. Answering paragraph 172, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

173. Answering paragraph 173, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

174. Answering paragraph 174, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

175. Answering paragraph 175, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

176. Answering paragraph 176, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
177. Answering paragraph 177, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
178. Answering paragraph 178, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
179. Answering paragraph 179, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
180. Answering paragraph 180, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
181. Answering paragraph 181, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
182. Answering paragraph 182, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
183. Answering paragraph 183, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
184. Answering paragraph 184, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
185. Answering paragraph 185, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.
186. Answering paragraph 186, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

187. Answering paragraph 187, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

**MEnD's History of Misleading Documentation and Cover-ups Continues Here**

188. Answering paragraph 188, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

189. Answering paragraph 189, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

190. Answering paragraph 190, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

191. Answering paragraph 191, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

192. Answering paragraph 192, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

193. Answering paragraph 193, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

194. Answering paragraph 194, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

195. Answering paragraph 195, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

196. Answering paragraph 196, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

**Count One**

**42 U.S.C. § 1983**

**Eighth and Fourteenth Amendment Violations**

***Plaintiff v. Michael McIlvain, Heather White, Joshua DeLong, Jane Does 1-3, and  
Todd Leonard, M.D., all in their individual capacities***

197. Answering paragraph 197, the answering defendants reallege and incorporate as if set forth herein these defendants' answers, denials, and defenses to plaintiff's Amended Complaint.
198. Answering paragraph 198, deny and put the plaintiff to her proof.
199. Answering paragraph 199, the allegations are legal conclusions to which no answer is required. To the extent an answer is required, deny and put plaintiff to her proof.
200. Answering paragraph 200, deny and put plaintiff to her proof.
201. Answering paragraph 201, the allegations are legal conclusions to which no answer is required. To the extent an answer is required, deny and put plaintiff to her proof.
202. Answering paragraph 202, the allegations are legal conclusions to which no answer is required. To the extent an answer is required, deny and put plaintiff to her proof.
203. Answering paragraph 203, the allegations are legal conclusions to which no answer is required. To the extent an answer is required, deny and put plaintiff to her proof.
204. Answering paragraph 204, the allegations are legal conclusions to which no answer is required. To the extent an answer is required, deny and put plaintiff to her proof.

205. Answering paragraph 205, the allegations are legal conclusions to which no answer is required. To the extent an answer is required, deny and put plaintiff to her proof.

206. Answering paragraph 206, the allegations are legal conclusions to which no answer is required. To the extent an answer is required, deny and put plaintiff to her proof.

207. Answering paragraph 207, the allegations are legal conclusions to which no answer is required. To the extent an answer is required, deny and put plaintiff to her proof.

**Count Two**

**42 U.S.C. § 1983**

**Eighth and Fourteenth Amendment Violations – *Monell Liability*  
*Plaintiff v. Douglas County and MEnD***

208. Answering paragraph 208, the answering defendants reallege and incorporate as if set forth herein these defendants' answers, denials, and defenses to plaintiff's Amended Complaint.

209. Answering paragraph 209, admit that Douglas County acted under color of state law. As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

210. Answering paragraph 210, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

211. Answering paragraph 211, the allegations are legal conclusions to which no answer is required. To the extent an answer is required, deny and put plaintiff to her proof..

212. Answering paragraph 212, the allegations are legal conclusions to which no answer is required. To the extent an answer is required, deny and put plaintiff to her proof.

213. Answering paragraph 213, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

214. Answering paragraph 214, the allegations are legal conclusions to which no answer is required. To the extent an answer is required, deny and put plaintiff to her proof.

215. Answering paragraph 215, the allegations are legal conclusions to which no answer is required. To the extent an answer is required, deny and put plaintiff to her proof.

216. Answering paragraph 216, the allegations are legal conclusions to which no answer is required. To the extent an answer is required, deny and put plaintiff to her proof.

217. Answering paragraph 217, the allegations are legal conclusions to which no answer is required. To the extent an answer is required, deny and put plaintiff to her proof.

### **Count Three**

#### **Ordinary and Professional Negligence *Plaintiff v. MEnD and Dr. Leonard***

218. Answering paragraph 218, the answering defendants reallege and incorporate as if set forth herein these defendants' answers, denials, and defenses to plaintiff's Complaint.

219. Answering paragraph 219, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

220. Answering paragraph 220, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

221. Answering paragraph 221, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

222. Answering paragraph 222, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

223. Answering paragraph 223, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

224. Answering paragraph 224, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

225. Answering paragraph 225, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

226. Answering paragraph 226, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

**Count Four**

**Wrongful Death – Negligence**  
***Plaintiff v. McIlvain, White, DeLong, and Douglas County***

227. Answering paragraph 227, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.



228. Answering paragraph 228, the allegations are legal conclusions to which no answer is required. To the extent an answer is required, deny and put plaintiff to her proof.
229. Answering paragraph 229, deny and put the plaintiff to her proof.
230. Answering paragraph 230, deny the plaintiff's allegations are complete or correct, and therefore deny and put the plaintiff to her proof.
231. Answering paragraph 231, the allegations are legal conclusions to which no answer is required. To the extent an answer is required, deny and put plaintiff to her proof.
232. Answering paragraph 232, the allegations are legal conclusions to which no answer is required. To the extent an answer is required, deny and put plaintiff to her proof.
233. Answering paragraph 233, the allegations are legal conclusions to which no answer is required. To the extent an answer is required, deny and put plaintiff to her proof.
234. Answering paragraph 234, the allegations are legal conclusions to which no answer is required. To the extent an answer is required, deny and put plaintiff to her proof.
235. Answering paragraph 235, deny and put the plaintiff to her proof.
236. Answering paragraph 236, deny and put the plaintiff to her proof.
237. Answering paragraph 237, admit a claim was submitted to Douglas County. As further answer, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

238. Answering paragraph 238, admit.

239. Answering paragraph 239, lack information sufficient to form a belief, therefore deny and put the plaintiff to her proof.

**Prayer for Relief**

1. Plaintiff's allegations state legal conclusions to which no answer is required. To the extent an answer is required, deny and put the plaintiff to her proof.
2. Plaintiff's allegations state legal conclusions to which no answer is required. To the extent an answer is required, deny and put the plaintiff to her proof.
3. Plaintiff's allegations state legal conclusions to which no answer is required. To the extent an answer is required, deny and put the plaintiff to her proof.
4. Plaintiff's allegations state legal conclusions to which no answer is required. To the extent an answer is required, deny and put the plaintiff to her proof.

**AFFIRMATIVE DEFENSES**

Defendants submit their affirmative defenses to the plaintiff's Amended Complaint as follows:

1. The injuries and damages sustained by the plaintiff, if any, were caused in whole or in part by the acts or omissions of the plaintiff.
2. The injuries and damages sustained by the plaintiff, if any, were caused in whole or in part by the acts or omissions of persons other than these answering defendants.
3. Plaintiff has failed to mitigate her damages, if any.
4. Plaintiff has failed to state claims upon which relief may be granted as against these answering defendants.

5. Plaintiff cannot establish that any acts or non-acts of the defendants caused Lance Novak's constitutional deprivations, if any.
6. The answering defendants are immune from suit by immunities including qualified immunity and discretionary/governmental immunity.
7. The plaintiff's claims are barred and limited by the notice, immunity, and damages requirements and limitations under Wis. Stat. § 893.80.
8. Plaintiff has failed to state claims for and are not legally entitled to compensatory damages.
9. Plaintiff has failed to state claims for and are not legally entitled to punitive damages.
10. Any injuries or damages sustained by the plaintiff are the result of an intervening and/or superseding cause preventing plaintiff any rights of recovery against these answering defendants.
11. Plaintiff has failed to exhaust administrative remedies before pursuing this action as required by statute or common law.
12. Plaintiff has failed to name necessary and indispensable parties.
13. At all times relevant to matters alleged in plaintiff's Amended Complaint, these answering defendants acted in good faith, in accordance with established laws and administrative rules.
14. No individual defendant can be found liable for the actions of any other individual defendant(s) under a theory of *respondeat superior* or supervisory liability.
15. All or portions of the plaintiff's Amended Complaint must be dismissed because one or more defendants had no personal involvement whatsoever in the events leading to or surrounding the incident which is the basis of this lawsuit.

16. These answering defendants reserve the right to name additional affirmative defenses, as they may become known through further discovery or other investigation in this action.

WHEREFORE, defendants, Michael McIlvain, Heather white, Joshua DeLong, and Douglas County, respectfully request the following relief:

1. for a dismissal of plaintiff's Amended Complaint upon its merits and with prejudice;
2. for the costs and disbursements of this action;
3. for the reasonable actual attorneys' fees pursuant to 42 U.S.C. § 1988; and
4. for such other relief as this Court deems just and equitable.

**DEFENDANTS HEREBY DEMAND A JURY OF 6**

Dated this 16<sup>th</sup> day of June, 2021.

CRIVELLO CARLSON, S.C.  
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